United Nations A/C.3/61/L.30/Rev.1

General Assembly

Distr.: Limited
16 November 2006

Original: English

Sixty-first session

Third Committee

Agenda item 67 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Belarus: revised draft resolution

Inadmissibility of human rights violations through the practice of secret detention and unlawful transfers

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other applicable human rights instruments,

Reaffirming that all Member States have the obligation to promote and protect human rights and fundamental freedoms and to fulfil their international commitments under the various international instruments in this field,

Recalling the 2005 World Summit Outcome[3] and its specific provision that States must ensure that any measure taken to combat terrorism complies with their obligation under international law, in particular international human rights, refugee and humanitarian law,

Taking note of resolution 1507 (2006) and recommendation 1754 (2006) of the Parliamentary Assembly of the Council of Europe, as well as the report of the Working Group on Arbitrary Detention[4] and other relevant documents,

Recognizing that international cooperation to fight terrorism must be conducted in strict conformity with international law, including the Charter of the United Nations and relevant international conventions and protocols,

Reaffirming the obligation of all States to fully respect non-refoulement obligations under international refugee law and international human rights law, and

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] Resolution 60/1.
[4] E/CN.4/2006/7.

06-61924 (E) 171106

the need to cooperate fully in the fight against terrorism by denying safe haven to terrorists and bringing them to justice by means of extradition or prosecution,

1. *Expresses its grave concern* at:

(a) The numerous human rights abuses committed through the practice of secret detention;

(b) The involvement of countries in the practice of secret detention and transfers of persons contrary to international law, in particular human rights, humanitarian and refugee law;

(c) The deprivation of detainees of their basic human rights, including the right to a fair trial by independent and impartial courts established by law in accordance with international human rights instruments, and failure to provide detainees with even basic forms of judicial protection by illegally detaining or transferring them;

(d) Holding detainees captive for an indefinite period of time in secret detention and failing to ensure their basic legal guarantees;

(e) Transportation of detainees, including on civilian aircraft, and the use of civilian airports or military airbases as platforms for transfers of detainees contrary to international law;

(f) Cases of ill-treatment, torture and other cruel, inhuman or degrading treatment of persons secretly detained;

(g) Using torture as a means of obtaining information, bearing in mind that detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment and can in itself constitute a form of such treatment;

2. *Urges* Member States:

(a) To fulfil their obligations under international law, including under the International Covenants on Human Rights[2] and other international human rights instruments, including provisions relating to the right to liberty and security of person, the right to challenge one's detention, freedom of movement and residence, the right to recognition everywhere as a person before the law and freedom from torture or other cruel, inhuman or degrading treatment or punishment and arbitrary arrest;

(b) To eliminate the practice of secret detention, and unlawful inter-State transfers of detainees, and ensure that anti-terrorism measures are in full conformity with international law, in particular international human rights, refugee and humanitarian law undertaken in line with the principal international human rights instruments and on the basis of the rule of law;

(c) To ensure that no one is detained arbitrarily or secretly on the national territories of Member States or on the territories within their effective control;

(d) To ensure that human rights defenders are not subjected to secret detention or transfers contrary to international law;

(e) To put an end to cases of ill-treatment, torture and other cruel, inhuman or degrading treatment of detainees;

(f) To ensure that national legal procedures provide for accountability mechanisms against human rights abuses while undertaking anti-terrorism measures;

(g) To ensure that competent authorities examine the allegation of secret detention promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation;

(h) To fully cooperate with relevant special procedures in the framework of the Human Rights Council and with the International Committee of the Red Cross on all issues regarding the secret detention of persons, particularly by granting access to detainees;

(i) To ensure that any person responsible for human rights violations in connection with secret detention or unlawful transfers is brought to justice in accordance with international human rights instruments;

3. *Invites* the appropriate human rights mechanisms to address the issue of secret detention and unlawful transfers in their reports and to make recommendations on ways to prevent the practice of secret detention and unlawful transfers;

4. *Requests* the Secretary-General to bring the present resolution to the attention of the relevant human rights bodies and mechanisms of the United Nations system.